

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AUTUMN MAY THOMAS and
LANCE SIDNEY THOMAS, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LISA MARIE THOMAS,

Respondent-Appellant,

and

NICHOLAS ANDREW THOMAS

Respondent.

UNPUBLISHED

October 18, 2007

No. 276418

Wayne Circuit Court

Family Division

LC No. 04-433538-NA

Before: Murphy, P.J., and Smolenski and Schuette, JJ.

MEMORANDUM.

Respondent Lisa Thomas¹ appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(g) and (j). Because we find no error warranting relief, we affirm.

The trial court did not clearly err in finding that the statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The present case arose after complaints that respondent and her husband were neglecting their children. In response to the complaints, a caseworker visited respondent's home. The children were found to be dirty, unkempt and with bruises and abrasions. The caseworker also described the home as so unsanitary as to pose a danger to the children. After the children were removed, respondent received services designed to improve her skills as a caregiver. In addition,

¹ In this opinion, we shall use respondent to refer solely to respondent-appellant Lisa Thomas.

the plan called for respondent to obtain mental health services related to her bi-polar disorder and consistently use her medication. Respondent was also required to obtain stable housing.

There was evidence that respondent participated in these services. However, there was also significant testimony that, notwithstanding her participation, respondent did not benefit from the services provided to her. Testimony indicated that respondent continued to show an inability to supervise and parent her children during visits. Respondent ignored her children during the visits so she could converse with adults. Indeed, the other adults often had to intervene in order to protect the children from dangerous situations or redirect inappropriate behavior. There was also testimony that respondent came to the visits wearing dirty clothing and had poor hygiene. Therefore, we cannot conclude that the trial court clearly erred when it concluded that respondent had not benefited from her participation in the services. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005) (noting that a parent must not only participate in the services provided under the plan, but also benefit from them).

In addition, although respondent testified that she was taking her medications, there was compelling testimony that contradicted her testimony. Respondent actually told a caseworker and mental health professionals that she enjoyed the manic phases of her illness and that she did not think that she needed to be on medication. Based on this evidence, the trial court concluded that respondent was not “vested” in addressing her mental health issues and found that she was not consistently taking her medications.

Finally, there was evidence that respondent was not in a position to provide stable housing for the children. Respondent had moved from home to home during the two years that services were provided. Moreover, although respondent had entered into a lease by the time of the trial, respondent could not afford to maintain the home on her social security income. Respondent admitted as much when she stated that she was relying on her ex-boyfriend to pay her utilities.

Based on this evidence, the trial court did not clearly err when it concluded that respondent had not benefited from the parenting services provided to her, had not complied with the requirement that she stay on her medications and had not obtained suitable housing. Respondent’s failure to comply with the requirements of the plan is evidence of her failure to provide proper care and custody. *In re Trejo Minors*, 462 Mich 341, 360-363; 612 NW2d 407 (2000). Given respondent’s lack of progress over the period within which she was provided with services, the trial court also did not clearly err when it found that there was no reasonable expectation that respondent would be able to provide proper care and custody to the children within a reasonable time considering the young age of the children. MCL 712A.19b(3)(g). Because the trial court properly found that at least one statutory ground for termination of respondent’s parental rights existed, it was required to terminate respondent’s parental rights to the minor children unless it found that termination was clearly not in the best interests of the children. MCL 712A.19b(5); *In re Trejo, supra* at 354. After finding that there were statutory grounds for termination, the trial court found that “termination” was “clearly not contrary to the

children's best interests." On review of the entire record, we cannot conclude that this finding was clearly erroneous.

Affirmed.

/s/ William B. Murphy
/s/ Michael R. Smolenski
/s/ Bill Schuette